

REMARKS

Upon receipt of the instant Restriction Requirement, Claims 1, 3, 5, 6 and 8-74 were pending. Claims 16-56 were previously withdrawn from consideration as being directed to non-elected subject matter. Claims 1, 5, 10 and 67 are amended herein, as discussed below. No new matter is added by the amendment to Claims 1, 5, 10 and 67. Entry of the above amendments and reconsideration of the claimed subject matter is hereby requested in light of the following remarks.

Election and Restrictions

The Examiner did not find Applicants' grounds for traversing the previous restriction requirement persuasive. In particular, the Examiner contended that each of the inventions were distinct and independent as shown in the previous Office Action. Upon further consideration, the Examiner required the following elections of species:

Applicants are required to elect a single disclosed species from the following:

sodium dihydrogen citrate, disodium hydrogen citrate, trisodium citrate, trisodium citrate dihydrate, potassium dihydrogen citrate, dipotassium hydrogen citrate, calcium citrate, and magnesium citrate.

The Examiner contends that citric acid is generic to these species. The Examiner noted that these species were claimed in Claim 10 as forms of citrate salts which can be used in the claimed composition.

Applicants are further required to elect a single disclosed species from the following:

sodium acetate, sodium acetate trihydrate, potassium acetate, calcium acetate, calcium acetate monohydrate, magnesium acetate and magnesium acetate tetrahydrate.

The Examiner contends that acetate salt is generic to these species. These species are claimed in Claim 10 as forms of acetate salt which can be used in the claimed composition.

Applicants are further required to elect a single disclosed species from the following:

sodium lactate, potassium lactate, calcium acetate, and magnesium lactate.

The Examiner contends that lactate salt is generic to these species. These species are claimed in Claim 10 as forms of lactate salt which can be used in the claimed composition.

Upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

In making these election requirements, the Examiner notes that the species of each group is independent and distinct because each of the "active agents" to be utilized has its own unique chemical/physical properties.

Applicants elect, **with traverse**, the following species:

trisodium citrate (for the citrate)

sodium acetate (for the acetate)

sodium lactate (for the lactate).

Claims 1, 3, 5, 6, 8-15 and 57-74 read on trisodium citrate and sodium acetate, and Claims 1, 3, 5, 6, 8-12, 14-15 and 57-74 read on sodium lactate. Applicants make these elections **with traverse** for the following reasons.

In requiring the above election of species, Applicants respectfully submit that the Examiner incorrectly identified "citric acid", "acetate salt" and "lactate salt" as being generic to the indicated species. "Citric acid" is one of the various "citrates" which can be used in the claimed compositions. As the specification describes on pages 8-9, the term "citrate" (as used therein) refers to the "citrate anion, in any form, **including citric acid** (citrate anion complexed with three protons), salts containing the citrate anion, and partial esters of citrate anion." Accordingly, Applicants respectfully submit that "citrate" is generic to the citrate species and that the list of citrate species should also include "citric acid". Applicants have amended Claims 10 and 67 to reflect this. Applicants therefore request that the Examiner add "citric acid" to the

citrate species listed above and allow the Applicants the right to elect "citric acid" as the citrate species instead of "trisodium citrate" if the election of citrate species is maintained (in view of the following remarks).

For similar reasons, Applicants respectfully submit that "acetate" is generic to the acetate species so listed (instead of "acetate salt") and "lactate" is generic to the lactate species so listed (instead of "lactate salts"), and have amended Claim 10 to reflect this. Support for this amendment is found in the specification on pages 11 and 12.

Applicants have additionally amended Claim 1 to remove "in the form of an acetate salt" and "in the form of a lactate salt" and Claim 10 to insert "acetic acid" and "lactic acid" as choices for the acetate and lactate, respectively, therein. These amendments are also fully supported in the specification as originally filed on pages 11 and 12.

Applicants further traverse the above elections of species because the Examiner, in imposing the elections, contended that "each of the active ingredients to be utilized has its own unique chemical/physical properties." In making this statement to support the imposition of the elections requirement, it would appear that the Examiner does not completely understand the invention as claimed. The listed salts in each group are not the "active ingredients" *per se* in the claimed compositions. The active ingredients *per se* are the *anions* of the salts. Thus, as long as a salt provides the necessary concentration of the desired anion in the claimed composition, it does not matter in the claimed compositions which salt is used, just as long as the anion component of the salt is physiologically acceptable and provides the necessary concentration set forth in the claims. Accordingly, Applicants submit that the Examiner has improperly imposed an election of species in requiring that the Applicants elect a particular salt from a list of salts having the same physiologically acceptable anion. Applicants therefore request that the Examiner withdraw the above imposed election of species and that the Examiner examine all of the subject matter of Claims 1, 3, 5, 6 and 8-15 and 57-74 together. Such action would not place an undue burden on the Examiner in that any search conducted on the claimed compositions

would necessarily have to be directed to the desired anion of the listed salts (*e.g.*, citrate, acetate and lactate) and not to a particular salt.

Reconsideration of the claimed subject matter is hereby respectfully requested in view of the foregoing remarks.

Respectfully submitted,
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